

Attorney Docket No. 2002B132/2

**REMARKS/ARGUMENTS**

Claims 23 through 38 are first presented herein. Applicants respectfully state that claims 23 through 38 are supported in, *inter alia*, paragraphs 4, 13 21, 26, 28, 29, 30, 39, 41 and 46 of the Application. Applicants further submit that no new matter has been added.

**CLAIM REJECTIONS – 35 USC § 112**

Independent claims 1, 2 and 18, and the claims depending therefrom, were rejected under 35 USC § 112, second paragraph, to the extent that the preamble of those claims recites a “method for forming polypropylene,” but failing to recite the formation of a polymer. Further, the office action states these claims do not indicate when polymerization occurs or what order the recited steps are to take place in, and therefore, whether the replacement step is required to occur simultaneously with, before or after polymerization. This rejection is traversed, and reconsideration is requested.

“The test for definiteness under 35 U.S.C. § 112, second paragraph, is whether ‘those skilled in the art would understand what is claimed when the claim is read in light of the specification.’” MPEP §2173.02, citing *Orthokinetics, Inc. v. Safety Travel Chairs, Inc.*, 806 F.2d 1565, 1576 (Fed. Cir. 1986). Applicants use the terms “polymerization vessel” and “polymerization reactor” repeatedly, and interchangeably, throughout the detailed description to describe the location where olefins are passed through, in combination with a catalyst, *to polymerize olefin monomers to form polyolefins*. Para. 21, 26, 28, 39, 41 and 46 (emphasis added). One of ordinary skill in the art would know that in a method for forming polypropylene, polymerization takes place in a polymerization vessel when olefin monomers and a catalyst are introduced into it. Further, applicants may be their own lexicographers and can claim their invention “in whatever terms they choose so long as any special meaning assigned to a term is clearly set forth in the specification. MPEP § 2173.01. While one of ordinary skill in the art would understand “polymerization vessel” to refer to the location where polymerization occurs, applicants have made it abundantly clear by specifically defining that term in the detailed description.

“Unless the steps of a method actually recite an order, the steps are not ordinarily construed to require one.” *Altiris, Inc. v. Symantec Corp.*, 3118 F.3d 1363, 1369 (Fed. Cir.

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2003), *re-h'ing denied*, citing *Interactive Gift Express, Inc. v. Compuserve, Inc.*, 256 F.3d 1323, 1342 (Fed. Cir. 2001). Neither claims 1-18, nor the rest of the application, requires the replacement of the first section of the conduit to occur at any particular time with respect to the polymerization of the olefin monomers and, therefore, no such limitation should be read into the claims. *Id.* Paragraphs 29 through 31, describe an embodiment of applicants' method for forming polypropylene and catalyst delivery system. In that embodiment, the replacement step occurs during ongoing polymerization. However, as would be known to one of ordinary skill in the art, the replacement of the first section of the conduit may occur at any time before, during or after polymerization occurs.

For the reasons stated above, claims 1-18 are not indefinite under 35 U.S.C. § 112, second paragraph. Applicants, therefore, respectfully request removal of the rejection.

#### CLAIM REJECTIONS – 35 U.S.C § 103

Claims 1-3, 11, 15 and 16 have been rejected under 35 U.S.C § 103(a) as obvious over Carlson (US 2,508,744). This rejection is traversed and reconsideration requested.

Carlson discloses a process for polymerizing propylene to form polypropylene and an apparatus for use in the disclosed process. Carlson's apparatus, however, discloses only one propylene feed, not the two used in Applicants' apparatus. Carlson, col. 3, lns. 32-35. Nothing in Carlson discloses or suggests the use of two propylene feeds.

Likewise, Carlson does not recognize a problem for which the claimed invention provides a solution. As described in paragraph 29, the conduit in which monomer and catalyst are mixed before entering the polymerization vessel may become plugged during a typical polymerization operation. Before Applicants' invention, resolving this plugging required terminating the polymerization operation to remove and clear the plugging of the conduit. Plugging of this sort would interrupt Carlson's "preferred commercial operation" of a *continuous* liquid phase system. Carlson, col. 4, lns. 65-67. Carlson not only provides no solution to this problem, but fails to even recognize its existence.

A mere recitation that modification of a prior art reference would be "well within the ordinary skill of the art at the time the claimed invention was made" because the references relied

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upon teach that all aspects of the claimed invention were individually known in the art is not sufficient to establish a *prima facie* case of obviousness without some objective reason to combine the teachings of the references.

MPEP §2143.01(IV) citing *Ex Parte Levengood*, 28 USPQ2d 1300 (Bd. Pat. App. & Inter. 1993); see also *In re Kotzab*, 217 F.3d 1365, 1371 (Fed. Cir. 2000).

The Office Action states that one of ordinary skill in the art would be motivated to perform disassembly/re-assembly of a polymerization apparatus to conduct routine maintenance operations, however, there is no disclosure in Carlson, nor is it within the skill of one of ordinary skill in the art, to conduct a method or create an apparatus that permits one to do these routine maintenance operations while polymerization is ongoing. The claimed invention discloses just such a method and apparatus. Thus, neither Carlson, nor the ordinary skill of one in the art, disclose or suggest the claimed invention, and applicant requests removal of the rejection.

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**CONCLUSION**

Having demonstrated that the cited references fail to disclose or suggest the invention as claimed, and all remaining objections and rejections have been overcome, this application is in condition for allowance. Accordingly, applicant requests early and favorable reconsideration in the form of a Notice of Allowance.

If there are any questions regarding this amendment or the application in general, a telephone call to the undersigned would be appreciated, since this should expedite the prosecution of the application for all concerned.

If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response. Please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1712 (Docket #: 2002B132/2).

Respectfully submitted,



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